Meeting Record

Governor's Task Force on Drug Enforcement, Treatment, and Prevention

December 8, 2015 | 9:00 a.m. - 1:00 p.m. | Community North Hospital | Indianapolis

Facilitators:

John Hill, Governor's Office
Dr. John Wernert, Indiana Family Social Services Administration

Task Force Members Present:

Senator Jim Arnold, Indiana State Senate
Dr. Charles Miramonti, Indiana University Medicine/Indianapolis EMS
Superintendent Doug Carter, Indiana State Police
Senator Jim Merritt, Indiana State Senate
Representative Terry Goodin, Indiana House of Representatives
Bernard Carter, Lake County Prosecutor
Justice Mark Massa, Indiana Supreme Court
Dr. Tim Kelly, Community Health
Chief Mike Diekhoff, Bloomington State Police
Dr. Joseph Fox, Anthem, Inc.
Commissioner Bruce Lemmon, Indiana Department of Correction
Representative Wendy McNamara, Indiana House of Representatives
Dan Miller, Indiana Prosecuting Attorneys Council
Judge Roger Duvall, Scott County Circuit Court
Judge Wendy Davis, Allen County Superior Court
Mary Beth Bonaventura, Indiana Department of Child Services

Others Present:

Presenters:
Kathy Gregory, Indiana Family and Social Services Administration
Lee Buckingham, Hamilton County Prosecutor
Todd Meyer, Boone County Prosecutor

Staff Support to the Task Force:
Veronica Schilb, Office of the Governor
Devon McDonald, Indiana Criminal Justice Institute
Mary Kay Hudson, Indiana Judicial Center
Diane Haver, Indiana Judicial Center

Public Testimony Presenters:

Rodrigo Garcia
Joan Moon
Jamie Williams
Ben Gonzales
Cindy Stone
Linda Ostewig
Janice Walker
Sheila Holloway
Sandy Jeffers
Todd Meyer
Cheryl Dicken
Lori Bowles
Kathleen Bates
Kevin Moore
Tonya Murphy
Dawn Brock
Michelle Standeford
Scott Mitchell

Janet Eiland	Karen Andrew	Lori Saczawa
Gina Bardach	Brad Campbell	

Public:

Claudia Garcia	David Bozell	Tandra Johnson
Chuck Moon	Maurice Young	Kristen Kelly
Kathy Gregory	Jeremiah Mullet	Kathy Krusic
Valerie Michael	Melissa McCaffrey	Darri Black
Celedon Gonzalez	Sue Sanelhey	William Wooten
Scott Laneve	Darrell Mitchell	Jacob Jennings
Susan Brock Willimas	Brandon Haget	Jane Seigel

Task Force Members Absent:

Dr. Jerome Adams, Indiana State Department of Health
Dr. Joan Duwve, Indiana State Department of Health
Sheriff John Layton, Marion county Sheriff's Department
Reverend Rabon Turner, Sr., New Hope Missionary Baptist Church
Tony Gillespie, Indiana Minority Health Coalition

Meeting Summary:

- Presenters from the Indiana Family Social Services Administration, the Boone County Prosecutor's Office, and the Hamilton County Prosecutor's Office presented recommendations to the Task Force related to drug enforcement, prevention, and treatment.
- Public testimony was presented by 22 Indiana residents. Many offered recommendations to the Task Force on approaching addiction issues in the state of Indiana.
- A motion to support the recommendation to enhance penalties for drug dealers convicted of serious and aggravated offenses was passed.

Presentations:

Use of Involuntary Treatment Laws for Substance Abuse Disorders in Indiana

Kathy Gregory, J.D., Chief Legal Counsel, DMHA
Kathy Gregory presented to the Task Force on the use of involuntary treatment laws for substance abuse disorders in Indiana. She began with an overview of civil commitment and noted that the intricacies vary by state. Indiana has four elements of civil commitment: mental illness (IC 12-7-2-130), dangerous (IC 12-7-2-53), gravely disabled (IC 12-7-2-96), and facility (IC 12-7-2-82). An individual may be ordered to one of four types of in-patient commitment or detention, or may be ordered to one of two types of outpatient commitments. Ms. Gregory presented on each type of commitment and detention. An immediate detention is a hold for up to 24 hours, but not in a state hospital. An emergency detention is a court-ordered transport to a mental health facility, but not a state hospital. A temporary commitment may occur after a hearing takes place and a court order is issued. The individual's liberty may be restrained for up to 90 days and statute allows for one renewal. Regular commitment undergoes the same process of a temporary commitment, but is utilized in cases expected to exceed the 90 day period. Regular commitments are renewed annually after professional review. An outpatient commitment includes the same elements as an inpatient commitment, but the individual is not deemed as dangerous or gravely disabled. The outpatient commitment includes a court ordered treatment plan after provider consent.

Upon noncompliance, the court may revoke the outpatient commitment. An outpatient status may occur after an administrative hearing and is without a court order (*See PowerPoint slides 6 and 7 for additional definitions*).

Ms. Gregory presented on the challenges of using civil commitment laws for individuals suffering from drug addiction (slides 8-9). For example, fewer funding sources are available in the area of inpatient and residential treatment. Further, detoxification is costly and risky, which may discourage the detainment of an individual. Ms. Gregory also explained that an individual may no longer be considered dangerous after detoxification or gravely disabled due to family support. Thus, the individual is not committed. Ms. Gregory recommended to the Task force the development of infrastructure that would be supportive of the statutes. She further recommended looking at the manner by which other states have developed the language on their statutes relative to such populations.

Ms. Gregory answered questions from the Task Force. Dr. Wernert asked the members of the General Assembly if there would be an interest to examine the need. Representative Goodin and Senator Merritt agreed that interest could be found.

Public Testimony:

Rodrigo Garcia
Rodrigo Garcia presented to the Task Force on addiction in the medical community. Due to the high-stress environment, many professionals cope with the use of drugs and become addicted. Mr. Garcia reported that 150,000 nurses, or 10%, are under the influence of some sort of drug. The issue has led to a variety of questions. What happens if your healthcare provider becomes addicted? What are the reporting processes for the employer of the staff person struggling with addiction? What specialized programs are available to these professionals? What is in place to protect the public? How do we protect the patients?

Mr. Garcia told his story. He has worked for many years as an anesthesiologist and later became addicted to opiates. He was able to maintain his career while seeking help. Mr. Garcia reported that more people are dying from prescription drug overdoses than car accidents. He has now dedicated his life to assisting medical professionals who are struggling with addiction find help.

Dr. Kelly asked if he would recommend medical professionals be drug tested at the same level as other industries, such as transportation workers. Mr. Garcia agreed that they should, but the push back would be the cost and what party would be responsible for payment. Mr. Garcia noted, however, that the cost of malpractice is far greater. Additionally, such policies could potentially open the door to more complicated scenarios. For example, if an employee tests positive, should that individual face termination and be left to seek employment elsewhere, possibly still using? Or, will that individual be referred to treatment and not lose his or her employment?

Joan Moon
Joan Moon presented to the Task Force the story of her grandson who has struggled with addiction for many years. She explained that he has been in and out of various rehabilitation programs over the years. At one point, she reported having her grandson back for a year. He was employed, off probation, and had embraced his family after many years of neglect. Ms. Moon attributed that year of recovery to having access to the non-addictive drug, Vivitrol. She noted that Vivitrol serves as a good tool to help combat addiction. Ms. Moon ask that the Task Force work to educate the public on the drug and incorporate into best practice. She noted that the drug has been on the market for many years and asked that the Task Force work with the judicial system to provide the drug to justice-involved individuals who struggle with

addiction. She also urged the Task Force to work to promote the drug to those who are not involved in the criminal justice system and their families.

John Hill reminded the Task Force that the Indiana Department of Correction will soon begin a pilot program in facilities to give people injections upon release from prison.

Jamie Williams
Jamie Williams shared her personal story to the Task Force. She adopted four of her great nieces after they were found living in unsafe conditions with their biological mother. She noted that they were each born under the influence of drugs and suffer from anxiety and depression. Because they began their lives under such trauma, they have faced many struggles, even after being adopted and placed in safe and stable environment with Ms. Williams. Ms. Williams requested that the Task Force take a look at a ranch in Tennessee that provides trauma therapy.

Ben Gonzales
Ben Gonzales promoted to the Task Force the use of medication-assisted treatment (MAT) in conjunction with a recovery program. Dr. Kelly prescribed Mr. Gonzales Vivitrol and stressed the importance of also working a program with the prescription. Mr. Gonzales, however, did not enroll in any sort of therapy and soon was involved in car accidents and acquired more arrests. He eventually enrolled into Laverna Lodge for residential treatment and resided at the Lodge for 90 days. During his stay at Laverna Lodge, Mr. Gonzales learned about long-term recovery and how to change his thinking as an addict. Prior to his stay at Laverna Lodge, his family found him in a state of an accidental overdose. He noted that people in recovery do not remember much, but his family will never forget his overdose. He stated, "Vivitrol is not just for the addict, but also for the families. We do recover, we just need to be given the tools." Mr. Gonzales stressed to the Task Force that MAT is a great tool for recovery.

Jill Gonzales
Jill Gonzales shared the story of Mr. Gonzales' overdose. She noted that the police administered Naloxone and saved his life. She requested training to more front-line responders across the state to administer Naloxone. Ms. Gonzales reported that Purdue University currently has a grant with the National Sheriff's Association to provide training and Naloxone kits for first responders.

John Hill reminded the Task Force that the Department of Homeland Security is looking at the availability of Naloxone around the state. Dr. Miramonti noted that pilot projects have been implemented with IMPD in order to expand the Naloxone program. He noted that the program has partnered with mental health agencies and social workers. The next step is to get Naloxone into hospitals and pharmacies and have family members and civilians trained on administering the drug.

Cynthia Stone
Cynthia Stone has a son who struggles with addiction. She noted that addiction is a family disease and parents should be empowered to change in order to stop the enabling process. She promoted a group that has been of great support to her, Parents of Addicted Loved Ones (palgroup.org). There is currently only one meeting in the state, which is held in Avon Indiana. The group has been helpful to her as a mother of an addict. The group has educated her on enabling and her son's co-dependence.

Linda Ostewig
Linda Ostewig stated to the Task Force that she has come to the meeting today as the voice for young people. She is the mother of an adult alcoholic daughter who has been sober for three years. Ms. Ostewig currently leads a Celebrate Recovery program for adults. She spoke about Hope Academy , which currently has 75 youth enrolled. Each week parents call and ask where they can send their children. She reported that the youth are the most difficult to help through recovery. Ms. Ostewig

recognized Healing Hearts, a support group for people who love an addict. She also reported that Hancock County is lacking resources for those in need of addiction services. Ms. Ostewig reported that she has attempted to open up a sober living home in her community for those who exit residential treatment and need continued services in order to thrive while living sober. They are especially in need of services for the younger population.

Karen Andre

Karen Andre reported that she is very active in raising awareness on addictions for those involved in the court system. She is the mother of two sons who are addicted to methamphetamine. She is strongly in favor of involuntary treatment ordered by the court. She is an advocate for long-term inpatient care. She explained to the Task Force that an addict's mind and body is different while using. Long-term inpatient care will work to stabilize the individual in order to work on recovery. She noted that Vivitrol and Narcan does not work for methamphetamine addiction and overdose and asked the Task Force if they knew of any developments of the like for methamphetamine. John Hill responded that the Task Force would discuss the topic.

Janice Walker

Janice Walker is a grandmother of a grandson who was born addicted to opiates. She asked the Task Force what can be done in order to ensure the safety of newborns. She advocated that infants must be protected. Ms. Walker told her story to the Task Force. After her grandson was born, he was sent home with his biological mother who had developed a safety plan. The safety plan should have dissolved after six months of compliance, but it has been extended three additional months due to non-compliance. Yet, her grandson still remained with his mother. Ms. Walker noted her disappointment in the safety plan. She felt a more effective way of addressing the problem would be to send her grandson's mother to residential treatment for a 27 day period and allow the baby to remain in the grandmother's care while the mother sought treatment and rehabilitation. She explained to the Task Force that she does not understand why protection of the mother seems to take priority of the protection of the baby. She asked why the mother could not be put in jail, why an involuntary commitment could not be ordered, or why Vivitrol could not be enforced.

Sandy Jeffers

Sandy Jeffers presented to the Task Force on the local program, Pathways (pathwaytorecovery.org). She has worked at Pathways for 21 years. Ms. Jeffers presented on the disease of addiction and noted that the concept of addiction was never meant to give the addict a "free pass." Yet, the concept of addiction means that the individual is "wired" a bit differently. The residential program is not medically staffed and all employees are in recovery. The program works in phases. Participants come from the street, shelters, jail, etc. The final goal is to place individuals in substance-free housing after completing the initial program. Ms. Jeffers asked, "Addiction is a lifelong barrier or issue so why is recovery not lifelong? When we relapse and end up back in jail, we are puzzled and confused and blame the addict." She explained that people with resources, such as celebrities, can die from addiction but we expect people with no resources to fully recover. "Addiction is a disease but it does not give them a pass." Ms. Jeffers recommended the Task Force look further into peer-supported programing due to the great number of people who are begging for help with limited resources available. Pathways does not cost a lot of money because there is not a medical staff and the programming is peer-ran.

Dr. Kelly noted that Pathways is so impressive that it is difficult to get an individual in need of their services admitted into the program. The also accept individuals suffering from co-occurring illnesses and follow a great model. They are creative and Dr. Kelly feels that every county needs a Pathways-type program. Particularly, because it is effective and not costly.

Ms. Jeffers noted that they are not eligible for third party funds or reimbursement. Additionally, they will be defunded by HUD next summer.

Dr. Wernert noted that they are willing to change the funding model for those programs that work. He explained that, in order to do so, they need to be aware of the recommendations in order to indicate an area in need of discussion.

Sheila Holloway
Sheila Holloway recommended to the Task Force the promotion of town hall discussions on the topic. She also recommended each Task Force member partner with a mother of an addict in order to gain a clear picture of the issues found among community members.

Cheryl Dicken
Cheryl Dicken spoke on the epidemic of heroin addiction she see in her small community. She noted that three of the seven houses on her street of residence have a heroin addicted son in addition to the son of her lifelong friend, and the son of a co-worker in the school system. Her son became addicted to opiates after being prescribed opiates for a back injury. He now uses heroin intravenously. During an accidental overdose, the first responders with Marion County were prepared to administer Narcan, but he became conscious. Her son is currently being held in jail and not receiving drug treatment while in custody. She explained how the drug has changed this young man that once had great potential. She is attempting to get him enrolled in the local drug court.

Lori Bowles
Lori Bowles shared her personal story. She lost her son to addiction and he left behind an infant son. Early on, he experimented with drugs, but later struggled with opiate addiction after a back surgery. She explained that he needed inpatient care in order to detox safely, but few options were available. She stated that we are amidst an epidemic and are losing a generation.

Kathleen Bates
Kathleen Bates is a member of the Indiana Coalition on Prevention and Treatment, a unified voice for the parents of addicts. She explained that their group will have many recommendations for the Task Force, but will allow the other audience members to speak. John Hill noted the Task Force is looking forward to their input.

Kevin Moore
Kevin Moore shared her personal story as the mother of two daughters who struggle with addiction. One daughter has spent time in jail for dealing. She would deal drugs in order to support her addiction. Her other daughter began using as a result of pain management. She is now a prostitute in order to support her addiction. She ended up with MRSA after being hospitalized and is now spreading the disease through prostitution and sharing needles. Ms. Moore stated, "The kids need clean needles."

Gina Bardach and Janet Eiland
The two presenters founded the organization, Hope and Overcoming, Inc. in Hamilton County. They both had children who struggled with addiction. At one time, they each thought they were the only people in their community who struggled with heroin addiction. They soon learned otherwise and began a campaign using the real faces of addiction. They noted that addiction is not isolated to the addict. Yet, it is a family disease. They noted one of the biggest barriers to recovery is the lack of monetary resources to fund treatment or they do not have insurance. One mother struggles with guilt after prompting her daughter's involvement in the criminal justice system. She did so while seeking help, but the system has failed her. Her daughter relapsed and ended up with two more months in jail. She asked why those two months could not be spent in residential treatment.

Michelle Standeford and Scott Mitchell
Michelle Standeford and Scott Mitchell represented the Steered Straight Indiana program. She noted that it is important to educate school-aged children from kindergarten to 12th grade. She asked that staff member, Veronica Schilb, forward the biography of Michael DiLeon to the Task force members. She would like to see the young be empowered to have a voice, have hope, and trust the officials at the schools to find them help when needed. Scott shared his personal story of addiction. He has suffered from two accidental overdoses, has been involved in two automobile accidents due to his impairment, and has spent time in jail, but those consequences did not encourage a behavior change. Mr. Mitchell attributes his recovery to the drug treatment he first received while in jail. He has been in recovery for two years.

Tonya Murphy and Dawn Brock
The two presenters shared their personal stories as mothers of sons who struggle with addiction. The first presenter's son overdosed and was brought back by Narcan. After medically cleared, her son was transported to jail. He has been in and out of jail for two years. Due to his felony convictions, he is unable to secure employment and feels worthless and discouraged. She stated to the Task Force that parents need help with helping their children.

The second presenter also shared her son's story of battling with addiction. She is the co-founder of CLEAN, Can Live Everyday Alive and New with the Indiana Coalition for Prevention and Treatment (ICPT). She noted the barriers to treatment and the lack of funding to receive treatment. At the age of 17, her son was suicidal, but was turned away from helping sources because he did not have a suicide plan. The presenter later turned to the police. She is frustrated because her son now has a number of charges on his record and accumulated court fees and attorney fees. She noted that the large amount of money spent in the criminal justice system could have gone towards treatment.

Laura Saczawa
Laura Saczawa is from Lake County and is the mother of and addict. She noted that her son is alive today because he is in prison. She would like to see the police in her area carry Narcan, but indicated that they refuse to carry and administer the drug. She reported that drugs are available in prison. She also recognized Superintendent Doug Carter for being at the meeting today.

Presentation:

Strengthening Penalties on Drug Dealers

Lee Buckingham
Lee Buckingham presented to the Task Force from the perspective of the criminal justice system. He noted that the criminal justice system is not designed or funded to address the many problems of society. However, the system is faced with having to address the drug epidemic in Indiana. Mr. Buckingham is a member of the Hamilton County Drug Court team and was involved with the planning and implementation of the court. He noted that while the court is successful in helping people, those who are helped by the court are only a small segment of the population in need. The recent legislation that reduced the penalties (HEA 1006) has made it more difficult to address the issue. The legislation has revoked the tools they could once use in order to remove the drug dealers from the community. Additionally, the coercive force in bringing someone into treatment is no longer available. Dealers face lower penalties, which makes the incentive to participate in drug court less appealing. Mr. Buckingham explained that prior to the HEA 1006, an individual charged with selling heroin to a minor could face up to 20 years in prison. HEA 1006 took away the mandatory sentencing for dealing to a minor. Mr.

Buckingham stated, "If we can't keep the dealer off the street, the problem will continue to perpetuate." He also noted that the appropriate statute is not available to hold an individual accountable for providing illicit drugs that result in death.

Todd Meyer
Todd Meyer has been the Boone County prosecutor for 14 years. He informed the Task Force the Indiana Prosecuting Attorney Council (IPAC) is currently seeking new legislation in support of harsher penalties for drug dealers, due to the reduction of penalties as a result of HEA 1006. He noted that he is not seeking harsher penalties for possession or other charges that would impact an addict. The concern of IPAC remains on the serious drug dealers who are delivering the poisons to our community members. Mr. Meyer reported they recommend an aggravated drug dealing law be enacted. Such a law would allow for a level two felony charge, which may result in 10-30 years in prison. The level two felony would require at least one of the following:

- Possession of at least ten grams
- Prior conviction for dealing a serious drug
- Committed the offense while in possession of firearm
- Committed the offense while in the presence of a child
- Delivered the substance to a minor or person under the age of 18
- Delivered to a person while in a safe zone

Currently, prosecutors must prove more than one of the above in order to charge the offender with a level two felony. They are requesting the enhancer be removed to allow for the level two felony charge if only one of the above is committed.

Motion by Mary Beth Bonaventura seconded by Senator Jim Merritt for the Task Force to support the recommendation to enhance penalties for drug dealers convicted of serious and aggravated offenses. Motion passed.

Meeting Adjourned at 1:10 pm.

John Hill requested the Task Force members to provide areas of concern and future discussion ideas to him for review. A formal structure to continue with discussions will occur. They are seeking ideas that will help in 2016. Mr. Hill thanked the Task Force and noted that Governor Pence greatly appreciates their efforts.

Meeting Agenda

Governor's Task Force on Drug Enforcement, Treatment, and Prevention

December 8, 2015 | 9:00 a.m. – 1:00 p.m. | Community Hospital North | Indianapolis

9:00 a.m. – 9:05 a.m.	**Welcome** John Hill & Dr. John Wernert, Co-Chairs, Governor's Task Force on Drug Enforcement, Treatment, and Prevention
9:05 a.m. – 11:00 a.m.	**Public Comment**
11:00 a.m. – 11:30 a.m.	**Indiana Addiction Hotline** Luke Bosso, Indiana Department of Child Services
11:30 a.m. – 12:00 p.m.	**A Review of Indiana's Involuntary Commitment Laws** Kathy Gregory, Indiana Family and Social Services Administration
12:00 p.m. – 12:30 p.m.	**Strengthening Penalties on Drug Dealers** Lee Buckingham, Hamilton County Prosecutor Todd Meyer, Boone County Prosecutor
12:30 p.m. – 1:00 p.m.	**Task Force Discussion on Recommendations**

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Purpose of Civil Commitment

- Anosognosia and denial
- Rights of society
  - 10th Amendment police powers
  - Common law "parens patriae"
- Rights of individual
  - 5th and 14th Amendment prohibition of deprivation of liberty without due process
  - Least restrictive environment

The Elements of Civil Commitment

- Mental illness (IC 12-7-2-130)
  - Includes psychiatric disorders, developmental disorders, and substance abuse disorders
- Dangerous (IC 12-7-2-53)
  - "Substantial risk"
- Gravely disabled (IC 12-7-2-96)
  - "Second prong": Impaired judgment preventing independent functioning
- Facility (IC 12-7-2-82)
  - Very broad in scope

Types of Inpatient Commitment/Detention

- Immediate Detention (IC 12-26-4)
  - Police probable cause
  - Transportation to facility (not state hospital)
  - 24 hours
- Emergency Detention (IC 12-26-5)
  - Physician's statement (with or without examination)
  - Court order for transportation to facility (not state hospital)
- Temporary Commitment (IC 12-26-6)
  - Clear and convincing evidence
  - Hearing and court order
  - CMHC approval if to state hospital
  - 90 days (one renewal)
- Regular Commitment (IC 12-26-7)
  - Same procedures as for temporary commitment, but expected to exceed 90 days
  - Periodic (annual) report to the court required to renew

Types of Outpatient Treatment Orders

- Outpatient Commitment (IC 12-26-14-1 to 6)
  - Court ordered treatment plan
  - Same elements as for inpatient commitment PLUS not likely to be dangerous or gravely disabled if complies and likely to comply
  - Temporary or regular in duration
  - Outpatient provider must consent
  - Revocation by court order to inpatient setting
- Outpatient Status (IC 12-26-14-7 to 10)
  - Without court order
  - Administrative conversion of inpatient commitment to outpatient status for duration of commitment period
  - Revocation to inpatient setting followed by administrative hearing

Special Challenges in Using Civil Commitment Laws for Substance Abusers

- Fewer funding sources for inpatient/residential beds for substance abuse treatment
- Fewer beds mean:
  - Less use of immediate and emergency detentions
  - Less likely to petition for temporary or regular commitment following detention
  - Less use of outpatient commitment due to inability to revoke to inpatient
  - Less use of outpatient status because no inpatient commitment to step down from
- Medical costs and risks associated with detoxification may discourage immediate and emergency detentions

Special Challenges in Using Civil Commitment Laws for Substance Abusers

- Following detoxification, a substance abuser may not meet dangerous criteria
- Employment, housing, and supportive family may defeat criteria of grave disability
- Unlike criminal courts, civil courts don't have jail to enforce outpatient treatment orders

Areas for Further Study

- How to develop a stronger infrastructure for inpatient/residential treatment for substance abuse disorders
- Whether a statutory amendment allowing for **outpatient** substance abuse assessments would encourage the use of immediate and emergency detention (the first step toward temporary or regular commitment, followed by outpatient commitment or status)
- How to encourage use of original action outpatient commitments by first determining whether the issues are resource or statutory in nature
  - If statutory, learn how other states have developed outpatient commitment criteria to better serve substance abusers within Constitutional parameters

End of Presentation

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